IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO. 2 OF 2001.

1. State of Goa,
through Dy. Collector &
L.A.O., Quepem; and

2. Executive Engineer,
P.W.D., W.D. XXV,
Gogal, Margao, Goa. ..... Appellants.

Versus

Mrs. Thereza D'Silva,
r/o H. No. 575, Bandfol,
Chinchinim, Salcete,
Goa. .... Respondent.

Ms. W. Coutinho, Government Advocate for the Appellants.

Shri S.S. Kakodkar, Advocate for the Respondent.

CORAM: R.M.LODHA, J.

DATE: 7th OCTOBER, 2005.

ORAL JUDGMENT:

The State of Goa through the Land Acquisition Officer, South Goa, Quepem and the Executive Engineer, P.W.D. (Works Division XXV), Gogol, Margao, Goa have preferred this First Appeal dissatisfied with the Judgment and Award dated 10th July, 2000 passed by the IInd Addl. District Judge, South Goa, Margao in LAC No.156/1992 pertaining to the compensation for acquisition of 195 sq. metres of the land from Survey

No.429/22 situated in the village Chinchinim, Taluka Salcete belonging to the respondent.

2. The Government of Goa issued Notification dated 23.5.1988 that was published in the Official Gazette on 18.8.1988 for acquisition of the aforementioned land along with other land for widening and improvement of the National Highway No.17. Upon conclusion of the acquisition proceedings, the Land Acquisition Officer offered market value of the acquired land at the rate of Rs.13/- per sq.m. As the owner found the offer of the Land Acquisition Officer too low as according to him the market value of the acquired land was Rs.300/- sq.m., he sought reference.

3. Before the Reference Court, the claimant – Thereza D'Silva (AW.1) examined herself. She also examined Vikas Dessai (AW.2) and Rosa Florina Coutinho (AW.3). The claimant produced four sale deeds; Sale Deed dated 13.8.1985 (Exh.AW4/A), sale deed dated 28.9.90 (Exh.AW1/A), Sale deed dated 4.6.93 (Exh.AW1/B) and Sale deed dated 11.6.93 (AW1/C). The valuation report of the expert was exhibited at AW2/A.

4. In rebuttal, the present appellants examined H.N. Subramanium (RW.1).

5. The Reference Court took the sale deed dated 13.8.1985 as the basis for determining the market value. The sale deed dated 13.8.1985 pertained to the plot of land situated at Chinchinim (Exh.AW4/A). That plot was sold at the rate of Rs.175 per sq.m. However, the Reference Court was of the view that the acquired land was part of set-back land and its user being restricted, reduced the price mentioned in the sale deed dated 13.8.1985 by 50% and then considered the rise in price of land at the rate of 10% per annum and fixed the market value of the acquired land at Rs.100/- per sq.m.

6. The learned Government Advocate and the learned counsel for the claimant did not dipute that the subject matter of this First Appeal is identical to F.A. No.32/1999 that was disposed of by me on 6th October, 2005. They admitted that in view of my Judgment dated 6th October, 2005, the elaborate consideration of the evidence in this First Appeal is not required. They agreed that the nature of evidence in F.A. No.32/1999 and in the present case is almost identical. The land in the present case was acquired under the same Notification and for the same purpose which was subject matter of F.A. No.32/99. In F.A. No.32/99, I held that the market value fixed at the rate of Rs.100/- per sq.m. did not call for any interference. For the self same reasons the market value fixed in the present case at Rs.100/- per sq.m. for the acquired land deserves to be

upheld and I hold so.

7. Consequently, the First Appeal is dismissed with no order as to costs.

R. M. LODHA, J.

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